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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1014

Introduced by Assembly Members Skinner and Williams

(Principal coauthor: Senator Jackson)

(Coauthors: Assembly Members Alejo, Bloom, Bonilla, Bonta, Buchanan, Dickinson, Levine, Lowenthal, Rendon, Stone, Ting, and Wieckowski)

February 22, 2013

An act to amend Sections 1524 and 18250 of, to add Section 1542.5 to, and to add Division 3.2 (commencing with Section 18100) to Title 2 of Part 6 of, the Penal Code, and to amend Section 8105 of the Welfare and Institutions Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1014, as amended, Skinner. Gun violence restraining orders.

(1) Existing law regulates the sale, transfer, possession, and ownership of firearms, including prohibiting specified persons from owning or possessing firearms. Existing law, among other things, prohibits a person subject to a domestic violence protective order from owning or possessing a firearm while that order is in effect and if prohibited by that order.

This bill would authorize a court to issue ~~an~~ *a temporary* emergency gun violence restraining order if a law enforcement officer asserts and a judicial officer finds that there is reasonable cause to believe that the subject of the petition poses an immediate and present danger of causing personal injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm and that the order is necessary to prevent personal injury to himself, herself, or another, as specified. The bill would require a law enforcement officer to serve the order on the restrained person, if the restrained person can reasonably be located, file a copy of the order with the court, and have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice. The bill would require the presiding judge of the superior court ~~in~~ *of* each county to designate at least one judge, commissioner, or referee *who is required* to be reasonably available to issue ~~orally, by telephone or otherwise,~~ *temporary* emergency gun violence restraining orders ~~at all times whether or not the court is when the court is not~~ in session.

This bill would additionally authorize a court to issue an ex parte gun violence restraining order, ~~upon a showing of good cause,~~ prohibiting the subject of the petition from having in his or her custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition, ~~as specified.~~ *when it is shown that there is a substantial likelihood that the subject of the petition will cause harm to himself, herself, or another in the near future by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm and that the order is necessary to prevent personal injury to himself, herself, or another, as specified.* The bill would require the ex parte order to expire no later than 21 days after the date on the order and would require the court to hold a hearing within 21 days of issuing the ex parte gun violence restraining order to determine if a gun violence restraining order that is in effect for one year should be issued. The bill would require a law enforcement officer *or a person at least 18 years of age who is not a party to the action to personally* serve the restrained

person the ex parte order, if the restrained person can reasonably be located.

The bill would authorize a court to issue a gun violence restraining order prohibiting the subject of the petition from having in his or her custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition for a period of one year when there is clear and convincing evidence ~~to believe that there is a substantial likelihood~~ that the subject of the petition, or a person subject to an ex parte gun violence restraining order, as applicable, will cause personal injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm and that the order is necessary to prevent personal injury to himself, herself, or another, as specified. The bill would authorize the renewal of the order for additional one-year periods and would permit the restrained person to request one hearing to terminate the order during the effective period of the initial order or each renewal period.

The bill would require a court, upon issuance of a gun violence restraining order, to order the restrained person to surrender to the local law enforcement agency all firearms and ammunition in his or her custody or control, or which he or she possesses or owns. The bill would require the local law enforcement agency to retain custody of the firearm or firearms and ammunition for the duration of a gun violence restraining order.

The bill would require the court to notify the Department of Justice and the district attorney *and law enforcement agency* in the jurisdiction in which a gun violence restraining order was issued when any gun violence restraining order has been issued, renewed, dissolved, or terminated.

The bill would make it a misdemeanor to file a petition for an ex parte gun violence restraining order or a gun violence restraining order issued after notice and a hearing, knowing the information in the petition to be false or with the intent to harass. The bill would also provide that a person who violates a gun violence restraining order is guilty of a misdemeanor and shall be prohibited from having in his or her custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition for a 5-year period, commencing upon the expiration of the existing gun violence restraining order.

By creating new crimes and by requiring new duties of local law enforcement, this bill would impose a state-mandated local program.

(2) Existing law states the grounds upon which a search warrant may be issued, including when the property or things to be seized include a firearm or any other deadly weapon that is owned by, or in the possession of, or in the custody or control of, specified persons.

This bill would allow a search warrant to be issued when the property or things to be seized are firearms or ammunition or both that are owned by, in the possession of, or in the custody or control of, a person who is the subject of a gun violence restraining ~~order~~. *order if a prohibited firearm or ammunition or both is possessed, owned, in the custody of, or controlled by a person against whom a gun violence restraining order has been issued, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.* The bill would also require the law enforcement officer executing a search warrant issued upon that ground to take custody of any firearm or ammunition that is in the restrained person's custody or control or possession, that is owned by the restrained person, or that is discovered pursuant to a consensual or other lawful search and would provide rules for executing the search warrant when the location to be searched is jointly occupied by the restrained person and one or more other persons.

(3) Existing law requires specified law enforcement officers to take temporary custody of any firearm or deadly weapon in plain sight or discovered pursuant to a lawful search when present at the scene of a domestic violence incident involving a threat to human life or physical assault.

This bill would apply the requirements described above to law enforcement officers serving a gun violence restraining order. The bill would also apply those requirements when the law enforcement officer is a sworn member of the Department of Justice who is a peace officer.

(4) Existing law requires the Department of Justice to request public and private mental hospitals, sanitariums, and institutions to submit to the department information necessary to identify persons who are admitted to a specified facility because the person is a danger to himself, herself, or others, to own, possess, control, receive, or purchase any firearm. Existing law requires the department to only use the information for certain specified purposes.

This bill would require the department to make use of the above-described information only to determine the eligibility of a person

who is the subject to either a gun violence restraining order or a firearm seizure warrant to acquire, carry, or possess firearms, destructive devices, or explosives.

(5) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(6) *This bill would incorporate additional changes in Section 18250 of the Penal Code, proposed by SB 1154, to be operative only if SB 1154 and this bill are chaptered and become effective on or before January 1, 2015, and this bill is chaptered last.*

~~(6)~~

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1524 of the Penal Code is amended to
2 read:

3 1524. (a) A search warrant may be issued upon any of the
4 following grounds:

5 (1) When the property was stolen or embezzled.

6 (2) When the property or things were used as the means of
7 committing a felony.

8 (3) When the property or things are in the possession of any
9 person with the intent to use them as a means of committing a
10 public offense, or in the possession of another to whom he or she
11 may have delivered them for the purpose of concealing them or
12 preventing them from being discovered.

1 (4) When the property or things to be seized consist of any item
2 or constitute any evidence that tends to show a felony has been
3 committed, or tends to show that a particular person has committed
4 a felony.

5 (5) When the property or things to be seized consist of evidence
6 that tends to show that sexual exploitation of a child, in violation
7 of Section 311.3, or possession of matter depicting sexual conduct
8 of a person under 18 years of age, in violation of Section 311.11,
9 has occurred or is occurring.

10 (6) When there is a warrant to arrest a person.

11 (7) When a provider of electronic communication service or
12 remote computing service has records or evidence, as specified in
13 Section 1524.3, showing that property was stolen or embezzled
14 constituting a misdemeanor, or that property or things are in the
15 possession of any person with the intent to use them as a means
16 of committing a misdemeanor public offense, or in the possession
17 of another to whom he or she may have delivered them for the
18 purpose of concealing them or preventing their discovery.

19 (8) When the property or things to be seized include an item or
20 any evidence that tends to show a violation of Section 3700.5 of
21 the Labor Code, or tends to show that a particular person has
22 violated Section 3700.5 of the Labor Code.

23 (9) When the property or things to be seized include a firearm
24 or any other deadly weapon at the scene of, or at the premises
25 occupied or under the control of the person arrested in connection
26 with, a domestic violence incident involving a threat to human life
27 or a physical assault as provided in Section 18250. This section
28 does not affect warrantless seizures otherwise authorized by Section
29 18250.

30 (10) When the property or things to be seized include a firearm
31 or any other deadly weapon that is owned by, or in the possession
32 of, or in the custody or control of, a person described in subdivision
33 (a) of Section 8102 of the Welfare and Institutions Code.

34 (11) When the property or things to be seized include a firearm
35 that is owned by, or in the possession of, or in the custody or
36 control of, a person who is subject to the prohibitions regarding
37 firearms pursuant to Section 6389 of the Family Code, if a
38 prohibited firearm is possessed, owned, in the custody of, or
39 controlled by a person against whom a protective order has been
40 issued pursuant to Section 6218 of the Family Code, the person

1 has been lawfully served with that order, and the person has failed
2 to relinquish the firearm as required by law.

3 (12) When the information to be received from the use of a
4 tracking device constitutes evidence that tends to show that either
5 a felony, a misdemeanor violation of the Fish and Game Code, or
6 a misdemeanor violation of the Public Resources Code has been
7 committed or is being committed, tends to show that a particular
8 person has committed a felony, a misdemeanor violation of the
9 Fish and Game Code, or a misdemeanor violation of the Public
10 Resources Code, or is committing a felony, a misdemeanor
11 violation of the Fish and Game Code, or a misdemeanor violation
12 of the Public Resources Code, or will assist in locating an
13 individual who has committed or is committing a felony, a
14 misdemeanor violation of the Fish and Game Code, or a
15 misdemeanor violation of the Public Resources Code. A tracking
16 device search warrant issued pursuant to this paragraph shall be
17 executed in a manner meeting the requirements specified in
18 subdivision (b) of Section 1534.

19 (13) When a sample of the blood of a person constitutes
20 evidence that tends to show a violation of Section 23140, 23152,
21 or 23153 of the Vehicle Code and the person from whom the
22 sample is being sought has refused an officer's request to submit
23 to, or has failed to complete, a blood test as required by Section
24 23612 of the Vehicle Code, and the sample will be drawn from
25 the person in a reasonable, medically approved manner. This
26 paragraph is not intended to abrogate a court's mandate to
27 determine the propriety of the issuance of a search warrant on a
28 case-by-case basis.

29 (14) When the property or things to be seized are firearms or
30 ammunition or both that are owned by, in the possession of, or in
31 the custody or control of a person who is the subject of a gun
32 violence restraining order that has been issued pursuant to Division
33 3.2 (commencing with Section 18100) of Title 2 of Part ~~6~~, *if a*
34 *prohibited firearm or ammunition or both is possessed, owned, in*
35 *the custody of, or controlled by a person against whom a gun*
36 *violence restraining order has been issued, the person has been*
37 *lawfully served with that order, and the person has failed to*
38 *relinquish the firearm as required by law.*

39 (b) The property, things, person, or persons described in
40 subdivision (a) may be taken on the warrant from any place, or

1 from any person in whose possession the property or things may
2 be.

3 (c) Notwithstanding subdivision (a) or (b), no search warrant
4 shall issue for any documentary evidence in the possession or
5 under the control of any person who is a lawyer as defined in
6 Section 950 of the Evidence Code, a physician as defined in Section
7 990 of the Evidence Code, a psychotherapist as defined in Section
8 1010 of the Evidence Code, or a member of the clergy as defined
9 in Section 1030 of the Evidence Code, and who is not reasonably
10 suspected of engaging or having engaged in criminal activity
11 related to the documentary evidence for which a warrant is
12 requested unless the following procedure has been complied with:

13 (1) At the time of the issuance of the warrant, the court shall
14 appoint a special master in accordance with subdivision (d) to
15 accompany the person who will serve the warrant. Upon service
16 of the warrant, the special master shall inform the party served of
17 the specific items being sought and that the party shall have the
18 opportunity to provide the items requested. If the party, in the
19 judgment of the special master, fails to provide the items requested,
20 the special master shall conduct a search for the items in the areas
21 indicated in the search warrant.

22 (2) (A) If the party who has been served states that an item or
23 items should not be disclosed, they shall be sealed by the special
24 master and taken to court for a hearing.

25 (B) At the hearing, the party searched shall be entitled to raise
26 any issues that may be raised pursuant to Section 1538.5 as well
27 as a claim that the item or items are privileged, as provided by
28 law. The hearing shall be held in the superior court. The court shall
29 provide sufficient time for the parties to obtain counsel and make
30 any motions or present any evidence. The hearing shall be held
31 within three days of the service of the warrant unless the court
32 makes a finding that the expedited hearing is impracticable. In that
33 case the matter shall be heard at the earliest possible time.

34 (C) If an item or items are taken to court for a hearing, any
35 limitations of time prescribed in Chapter 2 (commencing with
36 Section 799) of Title 3 of Part 2 shall be tolled from the time of
37 the seizure until the final conclusion of the hearing, including any
38 associated writ or appellate proceedings.

39 (3) The warrant shall, whenever practicable, be served during
40 normal business hours. In addition, the warrant shall be served

1 upon a party who appears to have possession or control of the
2 items sought. If, after reasonable efforts, the party serving the
3 warrant is unable to locate the person, the special master shall seal
4 and return to the court, for determination by the court, any item
5 that appears to be privileged as provided by law.

6 (d) (1) As used in this section, a “special master” is an attorney
7 who is a member in good standing of the California State Bar and
8 who has been selected from a list of qualified attorneys that is
9 maintained by the State Bar particularly for the purposes of
10 conducting the searches described in this section. These attorneys
11 shall serve without compensation. A special master shall be
12 considered a public employee, and the governmental entity that
13 caused the search warrant to be issued shall be considered the
14 employer of the special master and the applicable public entity,
15 for purposes of Division 3.6 (commencing with Section 810) of
16 Title 1 of the Government Code, relating to claims and actions
17 against public entities and public employees. In selecting the
18 special master, the court shall make every reasonable effort to
19 ensure that the person selected has no relationship with any of the
20 parties involved in the pending matter. Any information obtained
21 by the special master shall be confidential and may not be divulged
22 except in direct response to inquiry by the court.

23 (2) In any case in which the magistrate determines that, after
24 reasonable efforts have been made to obtain a special master, a
25 special master is not available and would not be available within
26 a reasonable period of time, the magistrate may direct the party
27 seeking the order to conduct the search in the manner described
28 in this section in lieu of the special master.

29 (e) Any search conducted pursuant to this section by a special
30 master may be conducted in a manner that permits the party serving
31 the warrant or his or her designee to accompany the special master
32 as he or she conducts his or her search. However, that party or his
33 or her designee may not participate in the search nor shall he or
34 she examine any of the items being searched by the special master
35 except upon agreement of the party upon whom the warrant has
36 been served.

37 (f) As used in this section, “documentary evidence” includes,
38 but is not limited to, writings, documents, blueprints, drawings,
39 photographs, computer printouts, microfilms, X-rays, files,

1 diagrams, ledgers, books, tapes, audio and video recordings, films,
2 and papers of any type or description.

3 (g) No warrant shall issue for any item or items described in
4 Section 1070 of the Evidence Code.

5 (h) Notwithstanding any other law, no claim of attorney work
6 product as described in Chapter 4 (commencing with Section
7 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure shall
8 be sustained where there is probable cause to believe that the
9 lawyer is engaging or has engaged in criminal activity related to
10 the documentary evidence for which a warrant is requested unless
11 it is established at the hearing with respect to the documentary
12 evidence seized under the warrant that the services of the lawyer
13 were not sought or obtained to enable or aid anyone to commit or
14 plan to commit a crime or a fraud.

15 (i) Nothing in this section is intended to limit an attorney's
16 ability to request an in camera hearing pursuant to the holding of
17 the Supreme Court of California in *People v. Superior Court (Laff)*
18 (2001) 25 Cal.4th 703.

19 (j) In addition to any other circumstance permitting a magistrate
20 to issue a warrant for a person or property in another county, when
21 the property or things to be seized consist of any item or constitute
22 any evidence that tends to show a violation of Section 530.5, the
23 magistrate may issue a warrant to search a person or property
24 located in another county if the person whose identifying
25 information was taken or used resides in the same county as the
26 issuing court.

27 (k) This section shall not be construed to create a cause of action
28 against any foreign or California corporation, its officers,
29 employees, agents, or other specified persons for providing location
30 information.

31 SEC. 2. Section 1542.5 is added to the Penal Code, immediately
32 following Section 1542, to read:

33 1542.5. Notwithstanding any other law, with regards to a search
34 warrant issued upon the grounds specified in paragraph (14) of
35 subdivision (a) of Section 1524, the following shall apply:

36 (a) The law enforcement officer executing the warrant shall take
37 custody of any firearm or ammunition that is in the restrained
38 person's custody or control or possession, that is owned by the
39 restrained person, or that is discovered pursuant to a consensual
40 or other lawful search.

1 (b) (1) If the location to be searched during the execution of
2 the warrant is jointly occupied by the restrained person and one
3 or more other persons and a law enforcement officer executing the
4 warrant finds a firearm *or ammunition* that is owned by a person
5 other than the restrained person, the firearm *or ammunition* shall
6 not be seized if both of the following conditions are satisfied:

7 (A) The firearm *or ammunition* is stored in a manner that the
8 restrained person does not have access to or control of the firearm
9 *or ammunition*.

10 (B) There is no evidence of unlawful possession of the firearm
11 by the owner of the firearm.

12 (2) If the location to be searched during the execution of the
13 warrant is jointly occupied by the restrained person and one or
14 more other persons and a gun safe is located that is owned by a
15 person other than the restrained person, the contents of the gun
16 safe shall not be searched except in the owner's presence, and with
17 his or her consent or with a valid search warrant for the gun safe.

18 SEC. 3. Division 3.2 (commencing with Section 18100) is
19 added to Title 2 of Part 6 of the Penal Code, to read:

20
21 DIVISION 3.2. GUN VIOLENCE RESTRAINING ORDERS

22
23 CHAPTER 1. GENERAL

24
25 18100. A gun violence restraining order is an order, in writing,
26 signed by the court, prohibiting *and enjoining* a named person
27 from having in his or her custody or control, owning, purchasing,
28 possessing, or receiving any firearms or ammunition. *This division*
29 *establishes a civil restraining order process to accomplish that*
30 *purpose.*

31 18105. ~~(a) The Judicial Council shall prescribe the form of~~
32 ~~the petitions and orders and any other documents required by this~~
33 ~~division and shall promulgate forms and instructions for applying~~
34 ~~for orders described in documents, and shall promulgate any rules~~
35 ~~of court, necessary to implement this division.~~

36 ~~(b) Any form to petition for a gun violence restraining order~~
37 ~~adopted pursuant to this section shall require the petitioner to~~
38 ~~describe the number, types, and locations of any firearms and~~
39 ~~ammunition presently believed by the petitioner to be possessed~~
40 ~~or controlled by the subject of the petition.~~

1 18107. *A petition for a gun violence restraining order shall*
2 *describe the number, types, and locations of any firearms and*
3 *ammunition presently believed by the petitioner to be possessed*
4 *or controlled by the subject of the petition.*

5 18109. *Nothing in this division shall be interpreted to require*
6 *a law enforcement agency or a law enforcement officer to seek a*
7 *gun violence restraining order in any case, including, but not*
8 *limited to, in a case in which the agency or officer concludes, after*
9 *investigation, that the criteria for issuance of a gun violence*
10 *restraining order are not satisfied.*

11 18110. Prior to a hearing on the issuance, renewal, or
12 termination of an order under Chapter 3 (commencing with Section
13 18150) or Chapter 4 (commencing with Section 18170), the court
14 shall ensure that a search as described in subdivision (a) of Section
15 6306 of the Family Code is conducted. After issuing its ruling, the
16 court shall provide the advisement described in subdivision (c) of
17 Section 6306 of the Family Code and shall keep information
18 obtained from a search conducted pursuant to this section
19 confidential in accordance with subdivision (d) of Section 6306
20 of the Family Code.

21 18115. (a) (1) (A) The court shall notify the Department of
22 Justice when a gun violence restraining order has been issued or
23 renewed under this division no later than one court day after issuing
24 or renewing the order.

25 (B) The court shall notify the Department of Justice when a gun
26 violence restraining order has been dissolved or terminated under
27 this division no later than five court days after dissolving or
28 terminating the order. Upon receipt of either of these notices, the
29 Department of Justice shall, within 15 days, ~~delete any reference~~
30 ~~to the gun violence restraining order from its records.~~ *note the*
31 *updated status of any order issued under this division.*

32 (2) The notices required to be submitted to the Department of
33 Justice pursuant to paragraph (1) shall be submitted in an electronic
34 format, in a manner prescribed by the department.

35 (b) (1) The court shall notify the district attorney *and law*
36 *enforcement agency* in the jurisdiction in which a gun violence
37 restraining order was issued when a gun violence order has been
38 issued or renewed under this division no later than one court day
39 after issuing or renewing the order.

1 (2) The court shall notify the district attorney *and law*
2 *enforcement agency* in the jurisdiction in which a gun violence
3 restraining order was dissolved or terminated when a gun violence
4 restraining order has been dissolved or terminated under this
5 division, no later than five court days after dissolving or
6 terminating the order.

7 18120. (a) A person subject to a gun violence restraining order
8 issued pursuant to this division shall not have in his or her custody
9 or control, own, purchase, possess, or receive any firearms or
10 ammunition while that order is in effect.

11 (b) (1) Upon issuance of a gun violence restraining order issued
12 pursuant to this division, the court shall order the restrained person
13 to surrender to the local law enforcement agency all firearms and
14 ammunition in the restrained person's custody or control, or which
15 the restrained person possesses or owns.

16 (2) The surrender ordered pursuant to paragraph (1) shall occur
17 by immediately surrendering all firearms and ammunition in a safe
18 manner, upon request of any law enforcement officer, to the control
19 of the officer, after being served with the restraining order. A law
20 enforcement officer serving a gun violence restraining order that
21 indicates that the restrained person possesses any firearms or
22 ammunition shall request that all firearms and ammunition be
23 immediately surrendered. Alternatively, if no request is made by
24 a law enforcement officer, the surrender shall occur within 24
25 hours of being served with the order, by either surrendering all
26 firearms and ammunition in a safe manner to the control of the
27 local law enforcement agency, or by selling all firearms and
28 ammunition to a licensed gun dealer, as specified in Article 1
29 (commencing with Section 26700) and Article 2 (commencing
30 with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part
31 6 of the Penal Code. The law enforcement officer or licensed gun
32 dealer taking possession of any firearms or ammunition pursuant
33 to this subdivision shall issue a receipt to the person surrendering
34 the firearm or firearms or ammunition or both at the time of
35 surrender. A person ordered to surrender all firearms and
36 ammunition pursuant to this subdivision shall, within 48 hours
37 after being served with the order, do both of the following:

38 (A) ~~File, with~~ *File with* the court that issued the gun violence
39 restraining ~~order,~~ *order* the *original* receipt showing all firearms
40 and ammunition have been surrendered to a local law enforcement

1 agency or sold to a licensed gun dealer. Failure to timely file a
2 receipt shall constitute a violation of the restraining order.

3 (B) File a copy of the receipt described in subparagraph (A)
4 with the law enforcement agency that served the gun violence
5 restraining order. Failure to timely file a copy of the receipt shall
6 constitute a violation of the restraining order.

7 (c) (1) Any firearms or ammunition surrendered to a law
8 enforcement officer or law enforcement agency pursuant to this
9 section shall be retained by the law enforcement agency until the
10 expiration of any gun violence restraining order that has been
11 issued against the restrained person. Upon expiration of any order,
12 any firearms or ammunition shall be returned to the restrained
13 person in accordance with the provisions of Chapter 2
14 (commencing with Section 33850) of Division 11 of Title 4.
15 Firearms or ammunition that are not claimed are subject to the
16 requirements of Section 34000.

17 (2) A restrained person who owns any firearms or ammunition
18 that are in the custody of a law enforcement agency pursuant to
19 this section and who does not wish to have the firearm or firearms
20 or ammunition returned is entitled to sell or transfer title of any
21 firearms or ammunition to a licensed dealer provided that the
22 firearm or firearms or ammunition are otherwise legal to own or
23 possess and the restrained person otherwise has right to title of the
24 firearm or firearms or ammunition.

25 (d) If the restrained person declines to relinquish possession of
26 any firearms or ammunition based on the assertion of the right
27 against self-incrimination, as provided by the Fifth Amendment
28 to the United States Constitution and Section 15 of Article I of the
29 California Constitution, the court ~~may, after prior notice to~~ *shall*
30 *notify the district attorney, attorney, and, upon the request of the*
31 *district attorney, may* grant use immunity for the act of
32 relinquishing the firearms or ammunition required under this
33 section.

34 (e) If a person other than the restrained person claims title to
35 any firearms or ammunition surrendered pursuant to this section,
36 and he or she is determined by the law enforcement agency to be
37 the lawful owner of the firearm or firearms or ammunition, the
38 firearm or firearms or ammunition shall be returned to the him or
39 her pursuant to Chapter 2 (commencing with Section 33850) of
40 Division 11 of Title 4.

CHAPTER 2. TEMPORARY EMERGENCY GUN VIOLENCE
RESTRAINING ORDER

18125. (a) ~~An~~ A temporary emergency gun violence restraining order may be issued *on an ex parte basis* only if a law enforcement officer asserts, and a judicial officer finds, *that there is reasonable cause to believe* both of the following:

(1) ~~That there is reasonable cause to believe that the~~ The subject of the petition poses an immediate and present danger of causing personal injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm.

(2) ~~That an~~ A temporary emergency gun violence restraining order is necessary to prevent personal injury to ~~himself, herself,~~ the subject of the petition or another because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the circumstances of the subject of the petition.

(b) ~~An~~ A temporary emergency gun violence restraining order issued pursuant to this chapter shall prohibit the subject of the petition from having in his or her custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition, and shall expire ~~14~~ 21 days from the date of the order. *order is issued.*

18130. ~~An~~ A temporary emergency gun violence restraining order is valid only if it is issued by a judicial officer after making the findings required by Section 18125 and pursuant to a specific request by a law enforcement officer.

18135. ~~An~~ A temporary emergency gun violence restraining order issued under this chapter shall include all of the following:

(a) A statement of the grounds supporting the issuance of the order.

(b) The date and time the order expires.

(c) The address of the superior court for the county in which the restrained party resides.

(d) The following statement:

“To the restrained person: This order will last until the date and time noted above. You are required to surrender all firearms and ammunition that you own to a local law enforcement agency or

1 *possess* in accordance with Section 18120 of the Penal Code and
2 you may not have in your custody or control, own, purchase,
3 possess, or receive, or attempt to purchase or receive a firearm or
4 ammunition, while this order is in effect. However, a more
5 permanent gun violence restraining order may be obtained from
6 the court. You may seek the advice of an attorney as to any matter
7 connected with the order. The attorney should be consulted
8 promptly so that the attorney may assist you in any matter
9 connected with the order.”

10
11 18140. A law enforcement officer who requests ~~an~~ *a temporary*
12 emergency gun violence restraining order shall do all of the
13 following:

14 (a) If the order is obtained orally, memorialize the order of the
15 court on the form approved by the Judicial Council.

16 (b) Serve the order on the restrained person, if the restrained
17 person can reasonably be located.

18 (c) File a copy of the order with the court as soon as practicable
19 after issuance.

20 (d) Have the order entered into the computer database system
21 for protective and restraining orders maintained by the Department
22 of Justice.

23 18145. (a) (1) *Except as provided in paragraph (2), the*
24 *petition for a temporary emergency gun violence restraining order*
25 *shall be obtained by submitting a written petition to the court.*

26 (2) *If time and circumstances do not permit the submission of*
27 *a written petition, a temporary emergency gun violence restraining*
28 *order may be issued in accordance with the procedures for*
29 *obtaining an oral search warrant described in Section 1526.*

30 (b) The presiding judge of the superior court ~~in~~ *of* each county
31 shall designate at least one judge, commissioner, or referee ~~to who~~
32 *shall* be reasonably available to issue ~~orally, by telephone or~~
33 ~~otherwise, temporary emergency gun violence restraining orders~~
34 ~~at all times whether or not the court is when the court is not in~~
35 session.

36
37 CHAPTER 3. EX PARTE GUN VIOLENCE RESTRAINING ORDER

38
39 18150. (a) (1) An immediate family member of a person or
40 a law enforcement officer may file a petition requesting that the

1 court issue an ex parte gun violence restraining order enjoining
2 the subject of the petition from having in his or her custody or
3 control, owning, purchasing, possessing, or receiving a firearm or
4 ammunition.

5 (2) For purposes of this subdivision, “immediate family
6 member” has the same meaning as in *paragraph (3) of subdivision*
7 *(b) of Section 422.4.*

8 (b) A court may issue an ex parte gun violence restraining order
9 if the petition, supported by an affidavit made in writing and signed
10 by the petitioner under oath, or an oral statement taken pursuant
11 to paragraph (2) of subdivision (a) of Section 18155, and any
12 additional information provided to the court ~~show good cause to~~
13 ~~believe~~ *shows that there is a substantial likelihood* that both of the
14 following are true:

15 (1) ~~There is a substantial likelihood that the~~ *The* subject of the
16 petition will, in the near future, cause personal injury to himself,
17 herself, or another by having in his or her custody or control,
18 owning, purchasing, possessing, or receiving a firearm as
19 determined by considering the factors listed in Section 18155 and
20 any other relevant evidence.

21 (2) An ex parte gun violence restraining order is necessary to
22 prevent personal injury to ~~himself, herself, the subject of the~~
23 *petition* or another because less restrictive alternatives either have
24 been tried and found to be ineffective, or are inadequate or
25 inappropriate for the circumstances of the subject of the petition.

26 (c) An affidavit supporting a petition for the issuance of an ex
27 parte gun violence restraining order shall set forth the facts tending
28 to establish the grounds of the petition, or the reason for believing
29 that they exist.

30 (d) An ex parte order under this chapter shall be issued or denied
31 on the same day that the petition is submitted to the court, unless
32 the petition is filed too late in the day to permit effective review,
33 in which case the order shall be issued or denied on the next day
34 of judicial business in sufficient time for the order to be filed that
35 day with the clerk of the court.

36 18155. (a) (1) The court, before issuing an ex parte gun
37 violence restraining order, ~~may~~ *shall* examine on oath, the
38 petitioner and any witness the petitioner may ~~produce and shall~~
39 ~~take his or her affidavit in writing, and cause the affidavit to be~~
40 ~~signed by the parties making them.~~ *produce.*

1 (2) In lieu of ~~a written affidavit required by paragraph (1);~~
2 ~~examining the petitioner and any witness the petitioner may~~
3 ~~produce, the court may take an oral statement under oath using~~
4 ~~the procedures prescribed in Section 1526.~~ *require the petitioner*
5 *and any witness to submit a written affidavit signed under oath.*

6 (b) (1) In determining whether grounds for a gun violence
7 restraining order exist, the court shall consider all evidence of the
8 following:

9 (A) A recent threat of violence or act of violence by the subject
10 of the petition directed toward another.

11 (B) A recent threat of violence or act of violence by the subject
12 of the petition directed toward himself or herself.

13 (C) A violation of an emergency protective order issued pursuant
14 to Section 646.91 or Part 3 (commencing with Section 6240) of
15 Division 10 of the Family Code that is in effect at the time the
16 court is considering the petition.

17 (D) A recent violation of an unexpired protective order issued
18 pursuant to Part 4 (commencing with Section 6300) of Division
19 10 of the Family Code, Section 136.2, Section 527.6 of the Code
20 of Civil Procedure, or Section 213.5 or 15657.03 of the Welfare
21 and Institutions Code.

22 (E) A conviction for any offense listed in Section 29805.

23 (F) A pattern of violent acts or violent threats within the past
24 12 months, including, but not limited to, threats of violence or acts
25 of violence by the subject of the petition directed toward himself,
26 herself, or another.

27 (2) In determining whether grounds for a gun violence
28 restraining order exist, the court may consider any other evidence
29 of an increased risk for violence, including, but not limited to,
30 evidence of any of the following:

31 (A) The *unlawful and* reckless use, display, or brandishing of
32 a firearm by the subject of the petition.

33 (B) The history of use, attempted use, or threatened use of
34 physical force by the subject of the petition against another person.

35 (C) Any prior arrest of the subject of the petition for a felony
36 offense.

37 (D) Any history of a violation by the subject of the petition of
38 an emergency protective order issued pursuant to Section 646.91
39 or Part 3 (commencing with Section 6240) of Division 10 of the
40 Family Code.

1 (E) Any history of a violation by the subject of the petition of
2 a protective order issued pursuant to Part 4 (commencing with
3 Section 6300) of Division 10 of the Family Code, Section 136.2,
4 Section 527.6 of the Code of Civil Procedure, or Section 213.5 or
5 15657.03 of the Welfare and Institutions Code.

6 (F) Evidence of recent or ongoing abuse of controlled substances
7 or alcohol by the subject of the petition.

8 (G) Evidence of recent acquisition of ~~firearms~~ *firearms*,
9 *ammunition*, or other deadly weapons.

10 (3) For the purposes of this subdivision, “recent” means within
11 the six months prior to the date the petition was filed.

12 (c) If the court determines that there ~~is good cause~~ *grounds* to
13 issue an ex parte gun violence restraining order *exist*, it shall issue
14 an ex parte gun violence restraining order that prohibits the subject
15 of the petition from having in his or her custody or control, owning,
16 purchasing, possessing, or receiving, or attempting to purchase or
17 receive, a firearm or ammunition, and expires no later than 21 days
18 from the date of the order.

19 18160. (a) An ex parte gun violence restraining order issued
20 under this chapter shall include all of the following:

21 (1) A statement of the grounds supporting the issuance of the
22 order.

23 (2) The date and time the order expires.

24 (3) The address of the superior court in which any responsive
25 pleading should be filed.

26 (4) The date and time of the scheduled hearing.

27 (5) The following statement:
28

29 “To the restrained person: This order is valid until the expiration
30 date and time noted above. You are required to surrender all
31 firearms and ammunition that you own ~~to a local law enforcement~~
32 ~~agency~~ *or possess* in accordance with Section 18120 of the Penal
33 Code and you may not have in your custody or control, own,
34 purchase, possess, or receive, or attempt to purchase or receive a
35 firearm or ammunition, while this order is in effect. A hearing will
36 be held on the date and at the time noted above to determine if a
37 more permanent gun violence restraining order should be issued.
38 Failure to appear at that hearing may result in a court making an
39 order against you that is valid for a year. You may seek the advice
40 of an attorney as to any matter connected with the order. The

1 attorney should be consulted promptly so that the attorney may
2 assist you in any matter connected with the order.”

3
4 (b) (1) An ex parte gun violence restraining order shall be
5 *personally* served on the restrained person by a law enforcement
6 officer, *or any person who is at least 18 years of age and not a*
7 *party to the action, as provided in Section 414.10 of the Code of*
8 *Civil Procedure*, if the restrained person can reasonably be located.

9 (2) When serving a gun violence restraining order, the law
10 enforcement officer shall inform the restrained person of the
11 hearing scheduled pursuant to Section 18165.

12 18165. Within 21 days after the date on the order, before the
13 court that issued the order or another court in the same jurisdiction,
14 the court shall hold a hearing pursuant to Section 18175 to
15 determine if a gun violence restraining order should be issued
16 under Chapter 4 (commencing with Section 18170).

17
18 CHAPTER 4. GUN VIOLENCE RESTRAINING ORDER ISSUED AFTER
19 NOTICE AND HEARING

20
21 18170. (a) An immediate family member of a person or a law
22 enforcement officer may request that a court, after notice and a
23 hearing, issue a gun violence restraining order enjoining the subject
24 of the petition from having in his or her custody or control, owning,
25 purchasing, possessing, or receiving a firearm or ammunition for
26 a period of one year.

27 (b) For purposes of this subdivision, “immediate family
28 member” has the same meaning as in *paragraph (3) of subdivision*
29 *(b) of Section 422.4*.

30 18175. (a) In determining whether to issue a gun violence
31 restraining order under this chapter, the court shall consider
32 evidence of the facts identified in paragraph (1) of subdivision (b)
33 of Section 18155 and may consider any other evidence of an
34 increased risk for violence, including, but not limited to, evidence
35 of the facts identified in paragraph (2) of subdivision (b) of Section
36 18155.

37 (b) At the hearing, the petitioner shall have the burden of
38 proving, by clear and convincing evidence, that both of the
39 following are true:

1 ~~There is a substantial likelihood that the~~ *The* subject of the
2 petition, or a person subject to an ex parte gun violence restraining
3 order, as applicable, will cause personal injury to himself, herself,
4 or another by having in his or her custody or control, owning,
5 purchasing, possessing, or receiving a firearm ~~as determined by~~
6 ~~considering the factors listed in Section 18155 and any other~~
7 ~~relevant evidence.~~ *or ammunition.*

8 (2) A gun violence restraining order is necessary to prevent
9 personal injury to the subject of the petition, or the person subject
10 to an ex parte gun violence restraining order, as applicable, or
11 another because less restrictive alternatives either have been tried
12 and found to be ineffective, or are inadequate or inappropriate for
13 the circumstances of the subject of the petition, or the person
14 subject to an ex parte gun violence restraining order, as applicable.

15 (c) (1) If *the court finds that* there is clear and convincing
16 evidence to issue a gun violence restraining order, the court shall
17 issue a gun violence restraining order that prohibits the subject of
18 the petition from having in his or her custody or control, owning,
19 purchasing, possessing, or receiving, or attempting to purchase or
20 receive, a firearm or ammunition.

21 (2) If the court finds that there is not clear and convincing
22 evidence to support the issuance of a gun violence restraining
23 order, the court shall dissolve any *temporary* emergency or ex
24 parte gun violence restraining order then in effect.

25 (d) The gun violence restraining order issued under this chapter
26 shall have a duration of one year, subject to termination by further
27 order of the court at a hearing held pursuant to Section 18185 and
28 renewal by further order of the court pursuant to Section 18190.

29 18180. (a) A gun violence restraining order issued pursuant
30 to this chapter shall include all of the following:

31 (1) A statement of the grounds supporting the issuance of the
32 order.

33 (2) The date and time the order expires.

34 (3) The address of the superior court for the county in which
35 the restrained party resides.

36 (4) The following statement:

37
38 “To the restrained person: This order will last until the date and
39 time noted above. If you have not done so already, you must
40 surrender all firearms and ammunition that you own to a local law

1 ~~enforcement agency~~ *or possess* in accordance with Section 18120
2 of the Penal Code. You may not have in your custody or control,
3 own, purchase, possess, or receive, or attempt to purchase or
4 receive a firearm or ammunition, while this order is in effect.
5 Pursuant to Section 18185, you have the right to request one
6 hearing to terminate this order at any time during its effective
7 period. You may seek the advice of an attorney as to any matter
8 connected with the order.”
9

10 (b) When the court issues a gun violence restraining order under
11 this chapter, the court shall inform the restrained person that he or
12 she is entitled to one hearing to request a termination of the order,
13 pursuant to Section 18185, and shall provide the restrained person
14 with a form to request a hearing.

15 18185. (a) A person subject to a gun violence restraining order
16 issued under this chapter may submit one written request at any
17 time during the effective period of the order for a hearing to
18 terminate the order.

19 (b) If the court finds after the hearing that there is no longer
20 clear and convincing evidence to believe that paragraphs (1) and
21 (2) of subdivision (b) of Section 18175 are true, the court shall
22 terminate the order.

23 18190. (a) (1) An immediate family member of a restrained
24 person or a law enforcement officer may request a renewal of a
25 gun violence restraining order at any time within the three months
26 before the expiration of a gun violence restraining order.

27 (2) For purposes of this subdivision, “immediate family
28 member” has the same meaning as in *paragraph (3) of subdivision*
29 *(b) of Section 422.4*.

30 (b) A court may, after notice and a hearing, renew a gun violence
31 restraining order issued under this chapter if the petitioner proves,
32 by clear and convincing evidence, that paragraphs (1) and (2) of
33 subdivision (b) of Section 18175 continue to be true.

34 (c) In determining whether to renew a gun violence restraining
35 order issued under this chapter, the court shall consider evidence
36 of the facts identified in paragraph (1) of subdivision (b) of Section
37 18155 and any other evidence of an increased risk for violence,
38 including, but not limited to, evidence of any of the facts identified
39 in paragraph (2) of subdivision (b) of Section 18155.

1 (d) At the hearing, the petitioner shall have the burden of
2 proving, by clear and convincing evidence, that paragraphs (1)
3 and (2) of subdivision (b) of Section 18175 are true.

4 (e) If the renewal petition is supported by clear and convincing
5 evidence, the court shall renew the gun violence restraining order
6 issued under this chapter.

7 (f) The renewal of a gun violence restraining order issued
8 pursuant to this section shall have a duration of one year, subject
9 to termination by further order of the court at a hearing held
10 pursuant to Section 18185 and further renewal by further order of
11 the court pursuant to this section.

12 (g) A gun violence restraining order renewed pursuant to this
13 section shall include the information identified in subdivision (a)
14 of Section 18180.

15 18195. Any hearing held pursuant to this chapter may be
16 continued upon a showing of good cause. Any existing order issued
17 pursuant to this division shall remain in full force and effect during
18 the period of continuance.

19
20 CHAPTER 5. OFFENSES
21

22 18200. Every person who files a petition for an ex parte gun
23 violence restraining order pursuant to Chapter 3 (commencing
24 with Section 18150) or a gun violence restraining order issued
25 after notice and a hearing pursuant to Chapter 4 (commencing with
26 Section 18170), knowing the information in the petition to be false
27 or with the intent to harass, is guilty of a misdemeanor.

28 18205. Every person who violates ~~an~~ a temporary emergency
29 gun violence restraining order issued pursuant to Chapter 2
30 (commencing with Section 18125), an ex parte gun violence
31 restraining order issued pursuant to Chapter 3 (commencing with
32 Section 18150), or a gun violence restraining order issued after
33 notice and a hearing issued pursuant to Chapter 4 (commencing
34 with Section 18170), is guilty of a misdemeanor and shall be
35 prohibited from having in his or her custody or control, owning,
36 purchasing, possessing, or receiving, or attempting to purchase or
37 receive, a firearm or ammunition for a five-year period, to
38 commence upon the expiration of the existing gun violence
39 restraining order.

40 SEC. 4. Section 18250 of the Penal Code is amended to read:

18250. If any of the following persons is at the scene of a domestic violence incident involving a threat to human life or a physical assault, is serving a protective order as defined in Section 6218 of the Family Code, is serving a gun violence restraining order issued pursuant to Division 3.2 (commencing with Section 18100), that person shall take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search as necessary for the protection of the peace officer or other persons present:

(a) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police officer of a city, as defined in subdivision (a) of Section 830.1.

(b) A peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2.

(c) A member of the University of California Police Department, as defined in subdivision (b) of Section 830.2.

(d) An officer listed in Section 830.6, while acting in the course and scope of the officer's employment as a peace officer.

(e) A member of a California State University Police Department, as defined in subdivision (c) of Section 830.2.

(f) A peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2.

(g) A peace officer, as defined in subdivision (d) of Section 830.31.

(h) A peace officer, as defined in subdivisions (a) and (b) of Section 830.32.

(i) A peace officer, as defined in Section 830.5.

(j) A sworn member of the Department of Justice who is a peace officer, as defined in Section 830.1.

SEC. 4.5. Section 18250 of the Penal Code is amended to read:

18250. If any of the following persons is at the scene of a domestic violence incident involving a threat to human life or a physical assault, ~~or~~ is serving a protective order as defined in Section 6218 of the Family Code, *or is serving a gun violence restraining order issued pursuant to Division 3.2 (commencing with Section 18100)*, that person shall take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search as necessary for the protection of the peace officer or other persons present:

1 (a) A sheriff, undersheriff, deputy sheriff, marshal, deputy
2 marshal, or police officer of a city, as defined in subdivision (a)
3 of Section 830.1.

4 (b) A peace officer of the Department of the California Highway
5 Patrol, as defined in subdivision (a) of Section 830.2.

6 (c) A member of the University of California Police Department,
7 as defined in subdivision (b) of Section 830.2.

8 (d) An officer listed in Section 830.6, while acting in the course
9 and scope of the officer's employment as a peace officer.

10 (e) A member of a California State University Police
11 Department, as defined in subdivision (c) of Section 830.2.

12 (f) A peace officer of the Department of Parks and Recreation,
13 as defined in subdivision (f) of Section 830.2.

14 (g) A peace officer, as defined in subdivision (d) of Section
15 830.31.

16 (h) A peace officer, as defined in subdivisions (a) and (b) of
17 Section 830.32.

18 (i) A peace officer, as defined in Section 830.5.

19 (j) *A sworn member of the Department of Justice who is a peace*
20 *officer, as defined in Section 830.1.*

21 (k) *A member of the San Francisco Bay Area Rapid Transit*
22 *District Police Department, as defined in subdivision (a) of Section*
23 *830.33.*

24 SEC. 5. Section 8105 of the Welfare and Institutions Code is
25 amended to read:

26 8105. (a) The Department of Justice shall request each public
27 and private mental hospital, sanitarium, and institution to submit
28 to the department information the department deems necessary to
29 identify those persons who are subject to the prohibition specified
30 by subdivision (a) of Section 8100, in order to carry out its duties
31 in relation to firearms, destructive devices, and explosives.

32 (b) Upon request of the Department of Justice pursuant to
33 subdivision (a), each public and private mental hospital, sanitarium,
34 and institution shall submit to the department information the
35 department deems necessary to identify those persons who are
36 subject to the prohibition specified by subdivision (a) of Section
37 8100, in order to carry out its duties in relation to firearms,
38 destructive devices, and explosives.

39 (c) A licensed psychotherapist shall report to a local law
40 enforcement agency, within 24 hours, in a manner prescribed by

1 the Department of Justice, the identity of a person subject to the
2 prohibition specified by subdivision (b) of Section 8100. Upon
3 receipt of the report, the local law enforcement agency, on a form
4 prescribed by the Department of Justice, shall notify the department
5 electronically, within 24 hours, in a manner prescribed by the
6 department, of the person who is subject to the prohibition specified
7 by subdivision (b) of Section 8100.

8 (d) All information provided to the Department of Justice
9 pursuant to this section shall be kept confidential, separate, and
10 apart from all other records maintained by the department. The
11 information provided to the Department of Justice pursuant to this
12 section shall be used only for any of the following purposes:

13 (1) By the department to determine eligibility of a person to
14 acquire, carry, or possess firearms, destructive devices, or
15 explosives.

16 (2) For the purposes of the court proceedings described in
17 subdivision (b) of Section 8100, to determine the eligibility of the
18 person who is bringing the petition pursuant to paragraph (3) of
19 subdivision (b) of Section 8100.

20 (3) To determine the eligibility of a person to acquire, carry, or
21 possess firearms, destructive devices, or explosives who is the
22 subject of a criminal investigation, or who is the subject of a
23 petition for the issuance of a gun violence restraining order issued
24 pursuant to Division 3.2 (commencing with Section 18100) of
25 Title 2 of Part 6 of the Penal Code, if a part of the investigation
26 involves the acquisition, carrying, or possession of firearms,
27 explosives, or destructive devices by that person.

28 (e) Reports shall not be required or requested under this section
29 if the same person has been previously reported pursuant to Section
30 8103 or 8104.

31 SEC. 6. The Legislature finds and declares that Section 3 of
32 this act, which adds Section 18110 to the Penal Code, imposes a
33 limitation on the public's right of access to the meetings of public
34 bodies or the writings of public officials and agencies within the
35 meaning of Section 3 of Article I of the California Constitution.
36 Pursuant to that constitutional provision, the Legislature makes
37 the following findings to demonstrate the interest protected by this
38 limitation and the need for protecting that interest:

39 In order to protect the privacy rights of a person subject to a
40 search pursuant to Section 18110 of the Penal Code.

1 *SEC. 7. Section 4.5 of this bill incorporates amendments to*
2 *Section 18250 of the Penal Code proposed by both this bill and*
3 *Senate Bill 1154. It shall only become operative if (1) both bills*
4 *are enacted and become effective on or before January 1, 2015,*
5 *(2) each bill amends Section 18250 of the Penal Code, and (3) this*
6 *bill is enacted after Senate Bill 1154, in which case Section 4 of*
7 *this bill shall not become operative.*

8 ~~SEC. 7.~~

9 *SEC. 8.* No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution for certain
11 costs that may be incurred by a local agency or school district
12 because, in that regard, this act creates a new crime or infraction,
13 eliminates a crime or infraction, or changes the penalty for a crime
14 or infraction, within the meaning of Section 17556 of the
15 Government Code, or changes the definition of a crime within the
16 meaning of Section 6 of Article XIII B of the California
17 Constitution.

18 However, if the Commission on State Mandates determines that
19 this act contains other costs mandated by the state, reimbursement
20 to local agencies and school districts for those costs shall be made
21 pursuant to Part 7 (commencing with Section 17500) of Division
22 4 of Title 2 of the Government Code.